

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA

-against-

ORDER

05-CR-0799 (NG) (RLM)

**MORDECAI ABRAHAM SORCHER and
SROYA SORCHER,**

Defendants.

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GERSHON, United States District Judge

Defendants Mordecai Abraham Sorcher and Sroya Sorcher move to dismiss the indictment, pursuant to Rule 12(b) of the Federal Rules of Criminal Procedure, on the following grounds: (1) expiration of the statute of limitations; (2) facial insufficiency; (3) vagueness; (4) duplicitousness; and (5) prejudicial delay between the time of the alleged events and the time of the return of the indictment. Defendants also move, pursuant to Rule 7(d) of the Federal Rules of Criminal Procedure, to strike paragraphs one through nine of the indictment as surplusage. Finally, they seek relief alternative to dismissal, including review of the grand jury minutes.

For the reasons stated on the record at oral argument on February 7, 2007, it is ordered that: Count One of the indictment, charging defendants with conspiracy to defraud the United States government, in violation of 18 U.S.C. § 371, is sustained. As to Count Two, school lunch and breakfast program fraud, in violation of 42 U.S.C. § 1760(g), the government shall file a supplemental brief by February 21, 2007 and the defendants shall reply by March 7, 2007. Counts Three, Four, and Five of the indictment, charging defendants with making materially false, fictitious and fraudulent statements and representations in a matter within the jurisdiction of the Executive Branch of the United States government, in violation of 18 U.S.C. § 1001(a)(2), are dismissed on

statute of limitations grounds. Defendants' remaining grounds for dismissal are denied. Defendants' motion to strike paragraphs one through nine of the indictment as surplusage and their requests for alternative relief are also denied.

Defendants also appeal Magistrate Judge Mann's discovery rulings of February 6, 2007. For the reasons set forth on the record at oral argument, the appeal is denied.

SO ORDERED.

_____/s/_____
NINA GERSHON
United States District Judge

Dated: February 9, 2007
Brooklyn, New York